

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:22-cv-58

COLLETTE BALKWILL,)
)
 Plaintiff,)
)
 v.)
)
TARGET CORPORATION, and)
TARGET STORE #2721)
)
 Defendant.)

**NOTICE OF REMOVAL
TO FEDERAL COURT**

Defendant Target Corporation and Target Store #2721, by and through undersigned counsel, respectfully remove the above-entitled action from the Superior Court of Wake County, North Carolina, to the United States District Court for the Eastern District of North Carolina, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice of Removal, Defendants state as follows:

1. This action is being removed to federal court based on diversity of citizenship between the parties and an amount in controversy greater than \$75,000.00.
2. On January 4, 2022, Plaintiff filed a Complaint in the Superior Court of Wake County, North Carolina, styled “Collette Balkwill v. Target Corporation and Target Store #2721.” That case was assigned civil action number 22 CVS 26 (“Superior Court action”). Defendants were served with the summons and Complaint on or about January 12, 2022. This Notice is being

filed within thirty (30) days of the date of service of the summons and Complaint on Defendants.

3. Plaintiff's claims for relief against Defendants in the Superior Court action are for negligence. Plaintiff alleges that on September 7, 2019, she was approaching the self check-out, when she slipped on some "accumulated water on the floor or in the aisle and her left leg slipped and folded underneath her body while she fell heavily to the ground causing significant personal injuries." (Complaint ¶ 17) "As a direct and proximate result of the negligence of Defendants Target . . . [plaintiff] suffered significant personal injuries." (Complaint ¶ 29). Plaintiff further alleges damages which include pain and suffering, partial permanent injury and disability to important parts of her body, and diminished earning capacity." (Complaint ¶ 30)

4. The United States District Court for the Eastern District of North Carolina has original jurisdiction over the Superior Court action pursuant to 28 U.S.C. § 1332(a) and it may be removed by Defendants pursuant to 28 U.S.C. §§ 1441(a) and 1446 for the following reasons:

- (a) Per Plaintiff's Complaint, she is a resident of the State of North Carolina.
- (b) At the commencement of this action and at all relevant times, Defendant Target Corporation is organized and existing under the laws of the State of Minnesota with a

principal place of business in Minnesota. Plaintiff pleads that Defendant Target Store #2721 is a subsidiary of Defendant Target Corporation, organized and existing under the laws of the State of Minnesota, with a principal place of business in Minnesota. Target Store #2721, however, is not an entity capable of being sued.

- (c) The matter in controversy between Plaintiff and Defendants was, at the commencement of this action, one in which complete diversity of citizenship exists.
- (d) The amount in controversy between the Plaintiff and Defendants in this action, exclusive of interest and costs, exceeds \$75,000.00, upon information and belief, inasmuch as Plaintiff alleges she sustained “significant personal injuries.” (Complaint ¶ 29), including “partial permanent injury and disability to important parts of her body, and diminished earning capacity.” (Complaint ¶ 30)
- (e) Defendants, therefore, file this notice of removal of this action from Superior Court, Wake County, to the United States District Court for the Eastern District of North Carolina.

5. Attached to this notice as Exhibit A and Exhibit B, respectively, are copies of the Summons, Affidavit of Service, and Complaint filed in the

Superior Court action.

6. A copy of this Notice of Removal is being sent for filing to the Clerk of Court of Wake County, North Carolina contemporaneously with the filing of this Notice of Removal, as shown by the Notice attached as Exhibit C.

WHEREFORE, Defendant respectfully requests that this action be removed from the Superior Court of Wake County, North Carolina, to the United States District Court for the Eastern District of North Carolina.

This the 7th day of February, 2022.

CRANFILL SUMNER LLP

/s/ Steven A. Bader

STEVEN A. BADER

State Bar No. 55931

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of February 2022, I electronically filed the foregoing *Notice of Removal to Federal Court* with the Clerk of Court using the CM/ECF system and mailed the document via the United States Postal Service, postage pre-paid and addressed to:

Gregory A. Posch
Posch Law Firm
P.O. Box 99418
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